

An amicable divorce

Working toward the separation of marriage and state

President Bush's politically calculated decision to endorse the idea, if not necessarily the particular wording, of an amendment to the U.S. Constitution banning same-gender marriages, was wrong-headed for reasons well beyond the inadvisability of using the fundamental document defining the scope of government to regulate personal relationships at the national level.

But both sides in this cultural conflict are approaching the issue incorrectly, seeking the sanction of government in areas that should be matters of personal choice.

What we should be working toward — indeed, perhaps the only way to resolve the issue without needless wrangling and corrosive hostility — is separation of marriage and state. There is little reason for government to have to give its permission, through the issuance of a license, when two people decide to get married. If they want to have the union blessed by a religious or secular institution, it should be up to that particular institution to decide whether or not to bless it, not the government.

Yes, yes, we know. There are certain privileges of marriage granted by government, such as joint filing of income taxes, inheritance rights and even Social Security survivor benefits, that are in most cases now denied to same-gender couples and that such couples believe should be available to them under the constitutional doctrine of equal protection. But most such arrangements can be worked out privately.

Some couples sign prenuptial agreements, which are not part of the traditional marriage process, and in general the courts have little problem enforcing them on the rare occasions when disputes arise. Similar arrangements could be worked out for other obligations and responsibilities of marriage, with very few exceptions.

Marriage is the most fundamental institution in human society, created over centuries and millennia of custom and experience and rooted in love and the desire to care for children. These characteristics will not disappear however government authorities may tinker.

Marriage will endure regardless of whether the U.S. government or the U.S. Constitution approves or disapproves, or tries to define it according to the temporal preferences of a particular era.

Rather than increase government involvement in marriage, we should be working to reduce it. Far from devaluing or denigrating marriage, this approach could strengthen it.

